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Standards, Procedures and Public Appointments Committee

Standing Order rule changes - Procedures on consent in relation to UK Parliament Bills



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Standards, Procedures and Public Appointments Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members;
- (d) matters relating to public appointments in Scotland;
- (e) matters relating to the regulation of lobbying; and
- (f) matters falling within the responsibility of the Minister for Parliamentary Business.

2. Where the Committee considers it appropriate, it may by motion recommend that a member's rights and privileges be withdrawn to such extent and for such period as are specified in the motion."



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Summary

1. The Committee is proposing changes to the rules relating to legislative consent to clarify processes in relation to instances in which the Parliament is invited to withhold its consent. This report sets out details of the Committee's consideration of the issue and its proposed solution in the way of amendments to Standing Orders.

What is a legislative consent memorandum?

2. Both the Scottish Parliament and the UK Parliament can make laws for Scotland. The Scottish Parliament has the power to make laws on devolved matters. Sometimes the UK Parliament will make laws on devolved matters, issues that the Scottish Parliament can make laws on or matters that are within the powers of Scottish Ministers. Usually the UK Parliament will not pass laws on matters devolved to Scotland unless the Scottish Parliament has given its consent.
3. Consent is only required for UK bills which make 'relevant provision' which means provision which applies to Scotland in any of the following ways:
 - for any purpose within the legislative competence of the Scottish Parliament
 - to alter that legislative competence of the Scottish Parliament
 - to alter the executive competence of the Scottish Ministers.
4. Executive competence relates to the devolution of powers to Scottish Ministers.
5. Chapter 9B of Standing Orders sets out the rules and procedures for seeking legislative consent in the Scottish Parliament.
6. When any of the criteria on relevant provision are fulfilled a member of the Scottish Government is obliged to lodge a legislative consent memorandum. Legislative consent memorandums may also be lodged by MSPs who are not Scottish Government Ministers, although this should not normally be done until a memorandum has been lodged on behalf of the Scottish Government.
7. All legislative consent memorandums should summarise what the Bill does, its policy objectives and specify the extent to which it makes relevant provision.
8. Legislative consent memorandums lodged by a member of the Scottish Government should also detail whether in the Government's view the Scottish Parliament should give or withhold its consent. It should detail whether the Government intends lodging a legislative consent motion (a motion seeking the Parliament's consent to relevant provision in a relevant UK Bill). If a legislative consent motion is expected to be lodged then the memorandum should include a draft of the motion.
9. Standing Orders only currently provides for a legislative consent motion to be lodged where the Scottish Parliament's consent is being sought.
10. Memorandums lodged by MSPs who are not members of the Scottish Government must include a draft legislative consent motion and must explain why it is appropriate for the UK Bill to make relevant provision.
11. A legislative consent memorandum will be referred to the committee of the Parliament which is responsible for the subject matter of the relevant provision. This committee is known as the lead committee. The lead committee must consider and

report to the Parliament on the memorandum. Standing Orders provide that a legislative consent motion should not normally be lodged until after the lead committee's report has been published, and should not normally be taken before the fifth sitting day after the report has been published.

Why is a change being proposed to the current legislative consent rules?

12. The Conveners Group [wrote](#) to the Committee in September 2022 to highlight the lack of provision in Standing Orders about motions refusing legislative consent.
13. The Constitution, Europe, External Affairs and Culture (CEEAC) Committee also [wrote](#) to the Committee in February 2023 to highlight concerns relating to this matter.
14. The correspondence highlighted the increased number of instances in which motions refusing consent were debated and agreed by the Parliament. In the absence of provisions in Chapter 9B relating to the refusal or withholding of consent, such motions fall under the general rules for motions in Chapter 8.
15. However, because such motions currently sit outwith the legislative consent process set out in Standing Orders Chapter 9B they therefore do not require committee scrutiny of the memorandum to have been carried out and reported before the motion is lodged or debated.
16. The CEEAC Committee highlighted concern in its letter that a motion refusing consent can be lodged and taken in the Chamber in advance of the lead Committee reporting on the LCM. In contrast, this is not generally the case in relation to consent motions where Standing Orders provides that the motion cannot normally be lodged until after the lead committee has reported and cannot normally be taken earlier than the fifth day after the report is published. The CEEAC Committee highlighted that the scrutiny work of committees “would usually be expected to have been completed before a Chamber debate, thereby allowing that work to frame and inform that debate.”

The consultation

What was consulted on?

17. In response to the concerns raised the Committee proposed a discrete procedure for refusing consent which it consulted on.
18. The consultation proposed a similar rule for motions refusing consent as currently exist for consent motions.
19. The draft rules set out in the consultation sought to replicate the same provisions for motions refusing consent as currently exist for legislative consent motions in a new Rule 9B.2A. This included:
 - the requirement that a *motion* refusing legislative consent can only be lodged if a corresponding legislative consent *memorandum* has been lodged. The memorandum should include a draft motion.
 - a motion refusing consent shall not normally be lodged until after the publication of the lead committee's report (this addresses the concern that consideration of a motion in the Chamber could take place before a committee had concluded its scrutiny – this would still be possible, but would not “normally” happen, replicating the position for consent motions).
 - every motion refusing legislative consent lodged is required to be taken in the Chamber and shall not normally be taken in the Parliament earlier than the fifth sitting day after the publication of the lead committee's report.
20. The consultation (Annexe A) asked whether there was support for draft rule changes. The consultation also asked whether making the lodging of a motion refusing consent should be mandatory when a consent motion is not being lodged (so that a motion of one form or another would be required for all legislative consent memorandums).

Who was consulted?

21. The Committee issued its consultation just before the 2023 summer recess to all the Scottish Parliament's committees, the Parliamentary Bureau, the political parties via their business managers or party leaders and the Minister for Parliamentary Business.

Consultation responses

New procedure for refusal of consent

22. All responses to the consultation were supportive of a new procedure for the refusal of legislative consent. Some of the consultation responses stated that the change

was needed and the CEEAC Committee considered that the proposals would address the concerns it had raised.

23. The Minister for Parliamentary Business said that the Scottish Government's view was that it would be helpful for debates on motions which recommend the withholding of consent to be brought within Rule 9B rather than as at present, dealt with by motions under Chapter 8. The Minister added that he considered this would not preclude the Parliament from debating the subject matter of a relevant UK Bill before a committee had reported on its scrutiny of the associated LCM but it would be clear that such a debate was not a formal legislative consent debate under Rule 9B.
24. The Economy and Fair Work (EFW) Committee noted that the change would provide recognition to committees' scrutiny role in the process.

Preference for making lodging a motion mandatory

25. The consultation asked whether respondents had a preference of the three possible approaches on making lodging a motion mandatory:
 - Option A: making no rule change so there is no requirement on the Scottish Government to lodge any motion.
 - Option B: Requiring the Scottish Government to always lodge a motion
 - Option C: Placing an obligation on the Scottish Government to endeavor to lodge a motion to give the Parliament the opportunity to refuse consent.
26. The majority who responded to the consultation chose Option C.
27. The CEEAC Committee were of the view that there should be a requirement to lodge a motion in every case to ensure there was always some Chamber consideration of all LCMs, whether consent is recommended or not. The CEEAC Committee agreed, however, that providing greater flexibility where intergovernmental negotiations are ongoing would be appropriate and proportionate and therefore supported Option C.
28. The Net Zero, Energy and Transport Committee offered a similar view and considered Option C to be a realistic approach enshrining the principle that the Scottish Government must, wherever possible give the Parliament a formal opportunity to refuse consent but also recognise that given "the dynamic interplay of two different Parliaments operating to different timetables" there was a need for some flexibility.
29. The EFW Committee chose Option B. The EFW Committee said there should be a requirement for a motion but did not provide further insights into its reason for this preference.
30. The Delegated Powers and Law Reform (DPLR) Committee considered that introducing an expectation or presumption that the Scottish Government should lodge a motion "might be the most appropriate way forward." The DPLR Committee considered that whilst there may be circumstance which would make Option B –

requirement to lodge a motion- too onerous the wording suggested at Option C might provide too much leeway.

Requirement for a legislative consent memorandum

31. Only a few of the consultation responses answered the question regarding whether there should be a requirement to lodge a memorandum when a Member intended to lodge a non-consent motion. All those that answered this question including the Parliamentary Bureau agreed it should be compulsory to lodge a memorandum.

Other issues raised

32. The Scottish Conservative Party in its response raised that the proposed changes did not fully cover the scenario where there is a difference of views between the UK Government and Scottish Governments over whether consent is actually required. They considered that the Scottish Government could lodge an LCM to refuse consent when it is not being sought by the UK Government.
33. The DPLR Committee invited consideration to be given to the merits of allowing the DPLR Committee to make reports directly to Parliament in cases where there is either no lead committee, or timescales appear so tight as to not allow for lead committee consideration, when it is considering an LCM or a supplementary LCM under rule 9B.3.6.

Rule change development with the Scottish Government

34. The Minister for Parliamentary Business's consultation response requested agreement for further discussions to take place at an official level on the drafting of the changes to Rule 9B relating to how the rule would operate in instances where UK Bills may give rise to the consideration of different consent positions at different points in a Bill's passage.
35. Following these discussions the Committee agreed that a single set of rules for any relevant Bill regardless of consent position, rather than separate parallel rules dependent on whether seeking legislative consent or refusal of legislative consent be proposed. This continues to reflect the original intentions of the Committee's consultation but provides a more streamlined drafting approach.
36. The Minister subsequently wrote to the Committee following sight of the revised draft rule indicating he was content with the proposed drafting.

Proposed Standing Orders rule change

37. The Committee believes the proposed draft rule change will provide more clarity to the Parliament's procedures for considering legislative consent motions. The Committee believes it will provide greater protection to the important scrutiny function performed by committees of legislative consent memorandums. It will also ensure the work of committees on these matters is always able to inform the Parliament's decision taking on legislative consent motions.
38. The revised draft rule change (Annexe B) proposed following discussions with the Scottish Government ensures that the same processes and stages are required regardless of whether consent is being sought or refusal of consent.
39. The revised draft rules make it clear that that the motion can seek consent or refusal of consent in relation to one or more relevant provisions in a relevant Bill. It also makes it clear that the motion does not need to list every relevant provision.
40. The revised draft rules also incorporates the preference expressed in the consultation responses for the Scottish Government to try to lodge a motion on legislative consent. The draft rules use the term 'normally' and do not specify any time limits: "A member of the Scottish Government shall normally lodge with the Clerk a motion on legislative consent in relation to any Bill to which Rule 9B.3.1. applies."
41. The Committee considers this approach provides a degree of flexibility on timing for the Scottish Government, in line with the majority view in the consultation responses.

Timing of rule change

42. There is currently no UK Parliament legislation where legislative consent is being sought due to the forthcoming UK General Election on 4 July 2024. The rule change could be agreed to take effect before any legislation which may seek legislative consent is introduced following the UK General Election.

Conclusion

43. The Committee recommends to the Parliament the Standing Order rule changes set out at Annexe B of this report.

Annexe A - Standards, Procedures and Public Appointments Committee consultation on Standing Order rule changes relating to the refusal of legislative consent

Request

The Standards, Procedures and Public Appointments Committee is seeking your views on rule changes relating to the refusal of legislative consent motions.

The Committee is consulting Committees, the Parliamentary Bureau, the political parties via the business managers and the Minister for Parliamentary Business.

Background

The Conveners Group [wrote](#) to the Committee in September 2022 to highlight the lack of provision in Standing Orders about motions refusing legislative consent.

The Constitution, Europe, External Affairs and Culture (CEEAC) Committee also [wrote](#) to the Committee in February 2023 to highlight concerns relating to this matter.

As you will be aware, the UK Parliament retains the power to legislate for Scotland, including on those matters that the Scotland Act 1998 devolves to Scotland. Where a UK Parliament Bill makes “relevant provision” – that is, it legislates on a devolved matter, alters the legislative competence of the Scottish Parliament or the executive competence of Scottish Ministers - the Scottish Government must lodge a legislative consent memorandum which is referred to a lead committee to consider and report on. The legislative consent memorandum sets out what the UK Parliament Bill does as a whole, what sort of relevant provision it contains and explains why in the Scottish Government’s view the Scottish Parliament should give or withhold its consent. However, Standing Orders only provide for a legislative consent motion to be lodged where the Scottish Parliament’s consent is being sought.

The SPPA Committee has given detailed consideration to the merits of including a procedure in Standing Orders to provide for motions refusing legislative consent. It recognises that there has been a growing practice of the Scottish Government lodging motions under the general rules for motions in Chapter 8 in order to provide for parliamentary debate and a vote on not giving consent. However, such motions and debates sit outwith the legislative consent process set out in Standing Orders Chapter 9B. The proposal below highlights the Committee’s main considerations around making provision about these motions in Chapter 9B.

As part of its consideration, the Committee particularly noted the concern the CEEAC Committee highlighted in its letter, namely that a motion refusing consent can be lodged and taken in the Chamber in advance of the lead Committee reporting on the LCM. In contrast, this is not generally the case in relation to consent motions where Standing Orders provides that the motion cannot normally be lodged until after the lead committee

has reported and cannot normally be taken earlier than the fifth day after the report is published.

The SPPA Committee has concluded that a discrete procedure for refusing consent would address a number of issues in this area, which are discussed in more detail in the proposal below.

The SPPA Committee is also proposing changes to Legislative Consent Memorandums to ensure that a motion refusing legislative consent can only be lodged if a corresponding legislative consent memorandum has been lodged and to require that the memorandum includes a draft motion refusing consent when there is an intention to lodge one. This ensures the same requirements apply no matter what sort of motion is intended.

The SPPA Committee is consulting on whether changes should be made to Standing Orders to address these issues.

Proposal

Legislative Consent Motions

The suggested rule changes propose a similar rule for motions refusing consent as currently exist for consent motions. The suggested rule changes seek to replicate the same provisions for motions refusing consent as currently exist for legislative consent motions in a new Rule 9B.2A. The proposed new Rule provides that:

- a motion refusing legislative consent shall identify the short title of the Bill, whether it was introduced in the House of Commons or the House of Lords, and the date on which it was introduced;
- a motion refusing consent shall not normally be lodged until after the publication of the lead committee's report (this addresses the concern that consideration of a motion in the Chamber could take place before a committee had concluded its scrutiny – this would still be possible, but would not “normally” happen, replicating the position for consent motions);
- every motion refusing legislative consent lodged is required to be taken in the Chamber and shall not normally be taken in the Parliament earlier than the fifth sitting day after the publication of the lead committee's report (this Rule also improves the position for committees in ensuring (“normally”) there is time between their report and the Chamber consideration).

The suggested rule changes will mean that motions refusing consent would be governed by the Rule 9B.2A and not the motions Rules in Chapter 8.

The suggested rule changes also prevent motions refusing legislative consent from being amended to become consent motions. Paragraph 4 is a way of ensuring that the process and scrutiny required by Chapter 9B for consent motions is followed in every case. It does this by preventing motions refusing consent from being turned into consent motions by amendment. Doing this by amendment means a consent motion can be voted on without an LCM having been lodged setting out the reasons why consent should be granted, and without the lead committee having been able to scrutinise this. The result of the proposed rule change would be that a consent motion could only be agreed if a standalone motion to that effect was lodged after the process in Chapter 9B (of lodging an LCM and having it considered by a lead committee) was followed. This protects the scrutiny process that

Chapter 9B set out.

The suggested rule changes are as follows:

Current legislative consent rule which provides procedure for giving consent

Rule 9B.2 Legislative consent motions

1. A motion seeking the Parliament's consent to relevant provision in a relevant Bill shall be known as a legislative consent motion. A legislative consent motion shall identify the relevant Bill by reference to its short title and the House of the UK Parliament in which and the date on which it was introduced.
2. A legislative consent motion shall not normally be lodged until after the publication of the lead committee's report.
3. Every legislative consent motion lodged shall be taken in the Parliament. The Parliament shall not normally take such a motion earlier than the fifth sitting day after the day on which the lead committee's report under Rule 9B.3.5 below is published.

Proposed new rule which provides a procedure for refusing consent

Rule 9B.2A Motions refusing legislative consent

1. A motion seeking the Parliament's refusal of consent to a relevant provision shall be known as a motion refusing legislative consent. A motion refusing legislative consent shall identify the relevant Bill by reference to its short title and the House of the UK Parliament in which and the date on which it was introduced.
2. A motion refusing legislative consent shall not normally be lodged under after the publication of the lead committee's report.
3. Every motion refusing legislative consent lodged shall be taken in the Parliament. The Parliament shall not normally take such a motion earlier than the fifth sitting day after the day on which the lead committee's report under Rule 9B.3.5 below is published.
4. A motion refusing legislative consent may not be amended in such a way that the amended motion would seek consent to any relevant provision to which the original motion did not seek consent.

Making lodging a motion mandatory

The Committee has also considered whether making the lodging of a motion refusing consent should be mandatory when a consent motion is not being lodged. This would require the Scottish Government to lodge a motion in every case (whether or not consent is recommended). This would ensure that there was some Chamber consideration of all LCMs, whether consent is recommended or not.

There are three possible approaches:

- Option A: Making no change which would place no requirement on the Scottish Government to lodge a motion and would mean that the legislative consent memorandum might not be debated in the Chamber (though the Rule changes discussed above could still apply to provide for a more formal scrutiny process within Chapter 9B when these motions are lodged); (No rule change)

- Option B: Requiring the Scottish Government to lodge a motion (Rule change Option B); or
- Option C: Placing an obligation on the Scottish Government to endeavor to lodge a motion to give the Parliament the opportunity to refuse consent (Rule change Option C)

Option A would require no rule changes. Options B and C would involve a further paragraph being added to the draft new Rule 9B.2A. The options are set out below.

Option B

5. A member of the Scottish Government must lodge a motion refusing legislative consent in relation to any relevant provision which has not been subject to a legislative consent motions, [normally before the last amending stage in the House other than that in which the Bill was introduced.]

Option B would place a requirement on the Scottish Government to always lodge a motion. There is a question over when in the process the motion should be lodged. The wording in square brackets in option B specifies “normally before the last amending stage in the House other than that in which the Bill was introduced”. This allows for the possibility that there may be an ongoing process of negotiation between the UK Government and Scottish Government during earlier stages of the Bill. On the other hand, there may be downsides to placing an obligation on the Scottish Ministers to a timetable over which they have no control, and which can be subject to change with little notice.

Alternatively, Option C is less prescriptive, requiring the Scottish Government to endeavour to lodge a motion at an appropriate point. This option would provide greater flexibility where negotiations were ongoing and take account of the challenges in relation to timetabling.

Option C

5. Where it is clear to the Scottish Ministers that consent is unlikely to be given to relevant provision in a relevant Bill while the Bill is still in progress in the UK Parliament, the Ministers shall endeavour to give the Parliament an opportunity to refuse consent to that provision by lodging, at an appropriate point, a motion refusing consent.

Legislative Consent Memorandums

The Committee is also proposing changes to legislative consent memorandums in addition to the changes to the legislative consent motion rules. The suggested addition of paragraph 2A seeks to ensure that a motion refusing legislative consent can only be lodged if a corresponding legislative consent memorandum has been lodged, mirroring the requirement for consent motions in paragraph 2.

The addition of subparagraph (ca) to Rule 9B.3.3 would require that an legislative consent memorandum lodged by someone who intends to lodge a motion refusing legislative consent has to include a draft of the motion. This mirrors subparagraph (c), which requires a draft consent motion to be included in cases of consent.

Rule 9B.3 Legislative consent memorandums

1. *[Text not included as no change proposed]*

2. Any member (other than a member of the Scottish Government) who intends to lodge a legislative consent motion in relation to a relevant Bill shall first lodge with the Clerk a legislative consent memorandum, but shall not normally do so until after a member of the Scottish Government has lodged a legislative consent memorandum in respect of that Bill.

2A. Any member (other than a member of the Scottish Government) who intends to lodge a motion refusing legislative consent in relation to a relevant Bill shall first lodge with the Clerk a legislative consent memorandum, but shall not normally do so until after a member of the Scottish Government has lodged a legislative consent memorandum in respect of that Bill.

3. A legislative consent memorandum shall—

(a) summarise what the Bill does and its policy objectives;

(b) specify the extent to which the Bill makes provision—

(i) for any purpose within the legislative competence of the Scottish Parliament; or

(ii) to alter that legislative competence or the executive competence of the Scottish Ministers;

(c) in the case of a memorandum lodged by a member (including a member of the Scottish Government) who intends to lodge a legislative consent motion, set out a draft of the motion and explain why the member considers it appropriate for that provision to be made and for it to be made by means of the Bill; ~~and~~

(ca) in the case of a memorandum lodged by a member (including a member of the Scottish Government) who intends to lodge a motion refusing legislative consent, set out a draft of the motion and explain why the member considers it inappropriate for that provision to be made or for it to be made by means of the Bill (or both); and

(d) in the case of a memorandum lodged by a member of the Scottish Government who does not intend to lodge either a legislative consent motion or a motion refusing legislative consent, explain why not.

4. *[Text not included as no change proposed]*

5. *[Text not included as no change proposed]*

6. *[Text not included as no change proposed].*

Action

The SPPA Committee is inviting your views on the following questions:

- Do you support a change to standing orders to provide a new procedure within Chapter 9B for a situation where the Scottish Government is refusing consent is refused?
- Do you have any specific comments on the wording of the proposed new procedure outlined in this paper?
- Do you have a preference of the three possible approaches on making lodging a motion mandatory:

- Option A – making no rule change so there is no requirement on the Scottish Government to lodge a motion
- Option B - requiring the Scottish Government to lodge a motion
- Option C - placing an obligation on the Scottish Government to endeavor to lodge a motion to give the Parliament the opportunity to refuse consent?
- Do you support a change to standing orders to provide that a motion refusing legislative consent can only be lodged if a corresponding legislative consent memorandum (LCM) has been lodged and that this memorandum must include a draft motion?

It would be much appreciated if a response could be received by 6 October.

Martin Whitfield MSP

Convener

Standards, Procedures and Public Appointments Committee

Annexe B - Proposed Standing Orders rule changes

Rule 5.4 Business programme

For Rule 5.4.2.(aa), substitute -

any legislative consent memorandum or motion on legislative consent;

Rule 9B.1 UK Parliament Bills making provision requiring the Parliament's consent

1. In this Chapter, a “relevant Bill” is a Bill under consideration in the UK Parliament which makes provision (“relevant provision”) applying to Scotland for any purpose within the legislative competence of the Parliament, or which alters that legislative competence or the executive competence of the Scottish Ministers.

Rule 9B.2 Motions on legislative consent

1. A motion seeking the Parliament's consent or refusal of consent to any or all relevant provisions in a relevant Bill shall be known as a motion on legislative consent. A motion on legislative consent shall identify the relevant Bill by reference to its short title and the House of the UK Parliament in which and the date on which it was introduced.

1A. A motion on legislative consent may seek either or both—

(a) consent to one or more relevant provisions, and

(b) refusal of consent to one or more other relevant provisions.

1B. A motion on legislative consent must identify each relevant provision in relation to which consent or refusal of consent is sought.

1C. A member of the Scottish Government shall normally lodge a motion on legislative consent for a relevant Bill in relation to which a legislative consent memorandum has been lodged under Rule 9B.3.1.

2. A motion on legislative consent shall not normally be lodged until after the publication of the lead committee's report.

3. Every motion on legislative consent lodged shall be taken in the Parliament. The Parliament shall not normally take such a motion earlier than the fifth sitting day after the day on which the lead committee's report under Rule 9B.3.5 below is published.

Rule 9B.3 Legislative consent memorandums

1. A member of the Scottish Government shall lodge with the Clerk a memorandum (“a legislative consent memorandum”) in relation to—

(a) any Government Bill that is a relevant Bill on introduction, normally no later than 2 weeks after introduction;

(b) any Private Member's Bill that was a relevant Bill on introduction and remains a

relevant Bill after the first amending stage in the House in which it was introduced, normally no later than 2 weeks after it completes that stage;

(c) any Bill that, by virtue of amendments—

(i) agreed to; or

(ii) tabled by a Minister of the Crown or published with the name of a Minister of the Crown in support,

in either House, makes (or would make) relevant provision for the first time or beyond the limits of any consent previously given by the Parliament, normally no later than 2 weeks after the amendments are tabled or agreed to.

2. Any member (other than a member of the Scottish Government) who intends to lodge a motion on legislative consent in relation to a relevant Bill shall first lodge with the Clerk a legislative consent memorandum, but shall not normally do so until after a member of the Scottish Government has lodged a legislative consent memorandum in respect of that Bill.

3. A legislative consent memorandum shall—

(a) summarise what the Bill does and its policy objectives;

(b) specify the extent to which the Bill makes provision—

(i) for any purpose within the legislative competence of the Scottish Parliament; or

(ii) to alter that legislative competence or the executive competence of the Scottish Ministers;

(c) in the case of a memorandum lodged by a member (including a member of the Scottish Government) who intends to lodge a motion on legislative consent seeking the Parliament's consent or refusal of consent to any relevant provision, set out a draft of the motion and explain why the member considers it appropriate that—

(i) any relevant provision in relation to which consent is sought is made by means of the Bill;

(ii) any relevant provision in relation to which refusal of consent is sought is not made by means of the Bill; and

(d) in the case of a memorandum lodged by a member of the Scottish Government who does not intend to lodge a motion on legislative consent (for the time being) explain why not.

4. Notice of any legislative consent memorandum lodged shall be given in the Business Bulletin. The Clerk shall arrange for the memorandum to be published.

5. The Parliamentary Bureau shall refer any legislative consent memorandum to the committee within whose remit the subject matter of the relevant provision falls. That committee (referred to as “the lead committee”) shall consider and report on the legislative consent memorandum. Where the subject matter of the relevant provision falls within the remit of more than one committee the Parliament may, on a motion of the Parliamentary Bureau, designate one of those committees as the lead committee. The other committee or committees (“the secondary committee or committees”) may also consider the

legislative consent memorandum and report its or their view to the lead committee.

6. In any case where the Bill that is the subject of the memorandum contains provisions conferring on the Scottish Ministers powers to make subordinate legislation, the committee mentioned in Rule 6.11 shall consider and may report to the lead committee on those provisions.

